

# Notice of Allowability

Application No.

09/917,964

Examiner

Georgia L. Helmer

Applicant(s)

WILSON ET AL.

Art Unit

1638

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Response of 18 November 2004 and Interview of 18 February 2005.
2. ☒ The allowed claim(s) is/are 35, 36, 38 and 42.
3. ☐ The drawings filed on n/a are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
  - \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 16Nov04, 18Feb2005.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Bob Jondle on 18 February 2005.

2. Amend the claims as follows:

Cancel claims 37, 41 and 43.

35. A method for producing a corn plant comprising the steps of:

- (a) co-cultivating an immature embryo from said tissue at a temperature of about 18°C to 20°C with Agrobacterium capable of transferring at least one DNA sequence of interest to said tissue to produce an infected embryo;
- (b) culturing the infected embryo on a medium comprising an antibiotic to produce a resulting tissue;
- (c) culturing said resulting tissue on a medium comprising a selective agent and an antibiotic;
- (d) selecting transformed tissue having Type II callus; and
- (e) regenerating transgenic plants from said Type II callus.

36. The method of claim 35, wherein said temperature is about 19°C.
38. A method for transforming a line of corn comprising the steps of:
- (a) co-cultivating an immature embryo from said line with *Agrobacterium* capable of transferring at least one DNA sequence of interest to tissue of said line to produce an infected embryo;
  - (b) culturing the infected embryo to initiate callus on a medium comprising an antibiotic and a compound selected from the group consisting of glucose, maltose, lactose, sorbitol and mannitol, wherein the concentration of said compound is from 5 g/L to 30 g/L;
  - (c) culturing the resulting callus tissue on a medium comprising a selective agent and an antibiotic;
  - (d) selecting transformed callus tissue comprising growing Type II callus; and
  - (e) regenerating transgenic plants from said growing Type II callus.
42. A method for producing a transformed corn plant using *Agrobacterium* comprising the steps of:
- (a) initiating co-cultivation of an immature embryo from said tissue with *Agrobacterium* capable of transferring at least one DNA sequence of interest to said tissue to produce an infected embryo;
  - (b) applying heat shock treatment during said co-cultivation;

- (c) culturing the infected embryo to initiate callus on a medium comprising an antibiotic and glucose;
- (d) culturing the resulting callus tissue on a medium comprising a selective agent and an antibiotic;
- (e) selecting transformed callus tissue having Type II callus; and
- (f) regenerating transgenic plants from said Type II callus.

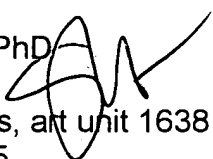
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3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Georgia L. Helmer whose telephone number is 571-272-0796. The examiner can normally be reached on 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amy Nelson can be reached on 571-272-0804. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Georgia Helmer PhD  
Patent Examiner  
Transgenic Plants, art unit 1638  
27 February 2005



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PRIMARY EXAMINER 3/3/05